

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

DEMUN D. WALKER,

Petitioner,

v.

STATE OF MISSOURI,

Respondent.

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No. 4:08CV00903 ERW

ORDER AND MEMORANDUM

This matter is before the Court upon the application of DeMun D. Walker for leave to commence this action without payment of the required filing fee. Upon consideration of the financial information provided with the application, the Court finds that the applicant is financially unable to pay any portion of the filing fee.

Petitioner, an inmate at the Eastern Reception, Diagnostic and Correctional Center, seeks release from confinement pursuant to 28 U.S.C. § 2254. Petitioner states that he is challenging his November 20, 2001 conviction for unlawful use of a weapon, stealing a motor vehicle, and burglary, imposed by the Circuit Court of St. Louis County, Missouri, as well as the revocation of his probation on October 24, 2002.

The Court's records show that petitioner has previously brought a § 2254 application for a writ of habeas corpus challenging his November 20, 2001 conviction and October 24, 2002 parole revocation on the same grounds as those asserted in the instant action, and that this Court dismissed the petition as time-barred. See Walker v. State of Missouri, No. 4:07-CV-1859-ERW (E.D. Mo.). Petitioner appealed, and on July 1, 2008, the Eighth Circuit Court of Appeals denied petitioner's application for a certificate of appealability and dismissed the appeal. See Walker v. State of Missouri, No. 08-1817 (8th Cir. 2008).

The instant action is duplicative of Walker v. State of Missouri, No. 4:07-CV-1859-ERW (E.D. Mo.), and hence, is time-barred.

Therefore,

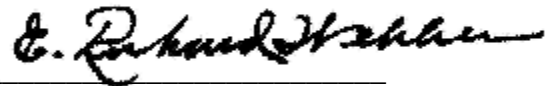
IT IS HEREBY ORDERED that petitioner's motion for leave to proceed in forma pauperis [Doc. #2] is **GRANTED**.

IT IS FURTHER ORDERED that no order to show cause shall issue as to the respondent, because the instant petition is time-barred under 28 U.S.C. § 2244(d)(1). See Walker v. State of Missouri, No. 4:07-CV-1859-ERW (E.D. Mo.).

IT IS FURTHER ORDERED that petitioner's application for a writ of habeas corpus is **DENIED**.

An order of dismissal shall accompany this order and memorandum.

So Ordered this 21st Day of July, 2008.

A handwritten signature in black ink, appearing to read "E. Richard Webber", written over a horizontal line.

E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE